

Waterfront Consensus Agreement
Canal Side Community Alliance – Erie Canal Harbor Development Corporation
Terms Agreed to in CSCA – ECHDC Negotiations
Hosted by Oishei Foundation
3 August 2011

1. BACKGROUND

- a. The Canal Side project involves the use of valuable community resources, including prime waterfront land, roughly \$150 million in public funding, and countless volunteer hours from Erie Canal Harbor Development Corporation (hereinafter ECHDC) board members and community members;
- b. ECHDC has demonstrated a commitment to working with the community to gather its input and to ensure that the community benefits as fully as possible from the investment of public resources;
- c. The Canal Side project goals, as listed in the Draft Generic Environmental Impact Statement, include “Utilize green design principles” and “Create locally owned retail businesses with living wage jobs,” (section 5.2);
- d. The City of Buffalo has one of the highest poverty rates in the nation (28.8% in 2009, compared to 13.9% in Erie County), with particularly high rates in minority communities (which now comprise over 50% of the City’s population), making the need for quality jobs and business opportunities particularly acute for local and minority residents;
- e. Buffalo stands in acute need of quality, affordable housing, with over 48.5% of city renters paying more than 30% of their income for rent each month;
- f. The public authorities are instruments of the State created by the Legislature to further public interests and "give primary consideration to local needs and desires, and are to foster local initiative and participation in connection with the planning and development of its projects” as defined by the Urban Development Corporation Act;
- g. The Canal Side Community Alliance (hereinafter CSCA) is a broad coalition of 60 community groups including block clubs, community developers, minority-owned contractors, environmental groups, locally-owned businesses, faith groups and many others with diverse skills, experiences, and knowledge, all committed to a successful Canal Side project;
- h. CSCA has advocated that ECHDC enter into a community benefits agreement addressing issues such as green design and operations, quality jobs, affordable housing, and opportunities for local and minority businesses and workers;
- i. The Common Council of the City of Buffalo passed a unanimous resolution indicating that the City would not transfer waterfront land to ECHDC in the absence of a community benefits agreement or like agreement;
- j. ECHDC has had fruitful discussions with various organizations including the CSCA to identify practical and efficient measures to provide community benefits and to address the goals and issues stated above and based on those discussions, ECHDC proposes the following terms constitute an understanding between ECHDC and CSCA and are to be included in any land transfer agreement with the City:

2. PARTIES TO THE AGREEMENT

- a. CSCA not a party to any land transfer agreement with the City of Buffalo.
- b. Terms stated herein are part of City of Buffalo and ECHDC as part of land disposition agreement.
- c. ECHDC to provide copies of reports to CSCA that are required to be provided to the City.
- d. ECHDC will agree to meet with CSCA regarding disputes and alleged violations of the agreement in a non-binding informal setting mediated by a neutral third-party.
- e. CSCA to have no legal rights to enforce terms of agreement.
- f. CSCA's only legal remedy is to enforce provisions of agreement relating to ECHDC's duty to meet with CSCA and receipt of any reports by CSCA.

3. QUALITY JOBS

In recognition of the fact there is a high unemployment rate in the City of Buffalo, ECHDC will provide for the following:

- a. ECHDC employees paid living wage as defined by City living wage ordinance.
- b. Construction contracts held by ECHDC require prevailing wage.
- c. A living wage will be paid to full time non-seasonal workers ("seasonal" workers work four months or less per year) who engage in the maintenance and operation of activities at Canal Side for the following:
 - i. employees of ECHDC; and
 - ii. contractors of ECHDC that employ more than 30 persons and where the annual contract with ECHDC exceeds \$50,000;
 - iii. contracts for legal, architectural and like professional services are legally excluded but contractors will be encouraged to pay living wages.
- d. ECHDC will commit \$225,000 paid over a three to five year period, to create a training/scholarship fund for low wage employees working in Canal Side to support their enrollment in existing local education or training opportunities.

4. LOCAL EMPLOYEE OPPORTUNITIES

To advance the goal of encouraging the participation of contractors, subcontractors, and workers from all segments of society in work at Canal Side, ECHDC will agree to the following:

- a. Tenants at Canal Side excluding the Donovan Block:
 - i. All tenants receiving ESD/ECHDC subsidy and employing 30 or more persons will utilize a first source agreement with the NYS Department of Labor for job posting and employment referral for City residents (except for management confidential positions or emergency employment). Employers have a 10 day "freeze" before hiring non-listed applicants.
 - ii. Tenants not receiving direct subsidy will utilize the NYS DOL first source agreement concurrently with other employee recruitment.

- b. Construction Contracts held By ECHDC
 - i. ECHDC has a goal of increasing minority general contractors but are constrained from hard goals based on the lowest responsible bidder requirements. ECHDC will work to publish the RFPs and to do outreach to MWBE contractors.
 - ii. ECHDC Contracts - 25% MWBE firm participation goals (20% minority, 5% women) and 30% workforce participation goals. 25% MWBE firm participation applies to all construction contracts held by ECHDC. 25% goal is generally reached through subcontractors.
- c. Developer Proposals- 25% MWBE participation (20% minority, 5% women) and 30% workforce participation for construction.
- d. ECHDC to employ a person or contractor specifically for promoting and monitoring local hiring, local construction opportunities and MWBE goals. Person/consultant to perform outreach with local and MWBE firms in bidding directly on ESDC work and assisting developers and contractors to meet ECHDC goals. Person will work closely with the NYS Department of Labor for first source hiring, as well as provide status updates regarding progress to the ECHDC, the City of Buffalo and the CSCA. CSCA will provide assistance through the RFP process in identifying qualified persons/contractors for this affirmative outreach position.
- e. This ECHDC employee or contractor will hold regularly scheduled public meetings with owners and professional associations of women and minority-owned businesses to encourage and ensure their involvement and participation in ECHDC projects.

5. LOCAL BUSINESS OPPORTUNITIES

In order to create a unique and vibrant Canal Side there must be opportunities for locally owned independent companies and new businesses. In order to create these opportunities, ECHDC will agree to:

- a. A goal of 50% for locally owned businesses at Canal Side, with priority for independent local entrepreneurs. ECHDC will work to encourage development with a large percentage of locally owned independent businesses.
- b. To employ a person or contract specifically for promoting and monitoring local business development. Person/consultant to perform outreach with locally owned independent businesses including women and minority-owned businesses for business development opportunities at Canal Side. Person/consultant will also track and publicly provide to the community status updates regarding progress in reaching goals.

6. ENVIRONMENTAL IMPACT

ECHDC is committed to environmental sustainability and innovation, resource conservation and restoration, renewable energy and multimodal transportation in Canal Side development. To achieve those goals, ECHDC agrees to:

- a. LEED Certification in all design and construction, with LEED Silver as a preferred goal, and diligent, good-faith efforts to investigate the feasibility of construction of a

- building within the project that achieves Gold or Platinum LEED level, including the use of solar or other sustainable onsite energy sources.
- b. Create a plan that delineates how all tenants and users on the project can reduce their waste and storm water run-off; with a goal of minimizing storm water entering the combined sewer system from the project and maximizing the use of permeable paving.
 - c. Support the full complement of transportation choices by providing infrastructure to take advantage of the train terminal, metrorail, bus lines, walking and biking paths, Niagara River Greenway, and water transportation to make the site truly multi-modal; make a good faith effort to pursue federal and state funding opportunities for multi-modal transit and transit-oriented development.
 - d. Prioritize the planting of trees and other hardy, native vegetation.
 - e. Assure that all streets include traffic calming and other bicycle and pedestrian-friendly features and that all buildings meet or exceed the City's bicycle parking requirements.
 - f. Explore including one or more landmark renewable projects to educate the public as to the possibilities of renewable energy: examples include a net-zero building, a solar-powered carousel, a geothermal ice rink, solar-powered boats, and the use of solar power to illuminate the grain elevators.
 - g. ECHDC will not limit or infringe on the public's ability to access the waterfront and land adjacent to the edge of the Buffalo River or any other body of water under its control.

7. AFFORDABLE HOUSING

In order to create a vibrant and economically diverse neighborhood at Canal Side, ECHDC agrees to:

- a. For general solicitations, preference given to affordable housing proposals.
- b. ECHDC will work to increase the access, use and enjoyment of Canal Side for all current and future residents of downtown neighborhoods and housing communities surrounding Canal Side.

8. PROCESS

- a. ECHDC will pass a resolution agreeing to the provisions herein which would be incorporated into any transfer agreement with the City.
- b. CSCA will support the transfer of City property to ECHDC needed for the development of Canal Side.
- c. CSCA will provide information and assistance as needed in implementation of the plan, and ECHDC and CSCA will meet at least annually to review progress toward meeting the goals of this agreement.